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Chair: Mr. López Ortega (Rapporteur)

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Mr. López Ortega, Rapporteur, took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports of States parties to the Convention (*continued*)

Initial report of Ecuador (CED/C/ECU/1; CED/C/ECU/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Ecuador took places at the Committee table.*

2. **Mr. de la Vega** (Ecuador), introducing the initial report of Ecuador (CED/C/ECU/1), said that in recent decades his country had proved its commitment to human rights and the protection of life by acceding to all relevant conventions of the inter-American and international systems and by meeting its obligations towards international monitoring bodies. Although there had been fewer cases of enforced disappearance in Ecuador than in some other Latin American countries, his country had nonetheless experienced some painful episodes, chiefly in the period between 1984 and 1988. The Government had responded by directly addressing the issue under a change-oriented approach that aimed to prevent enforced disappearance from ever happening again. In that context, it had developed three lines of action to guide its policy efforts.

3. The first line of action consisted in recognizing and prosecuting past cases of enforced disappearance. In 2007, the Truth Commission had been established to investigate serious violations of human rights and crimes against humanity; its report, released in 2010, had identified 456 victims, including 17 victims of enforced disappearance. In 2013, the Act on Reparation for Victims and Prosecution of Serious Human Rights Violations and Crimes against Humanity had been adopted into law, recognizing the State's responsibility for the human rights violations documented by the Truth Commission and establishing a reparations mechanism. That same year, the Vaca, Cajas and Jarrín case had become the first of its kind to be prosecuted, with charges brought against 10 senior officers of the armed forces and the national police after more than 25 years of impunity; the case was to be tried in April 2017. The González et al. case (known as the Fybeca case), which related to a police raid in 2003 at a pharmacy of that name and in which eight individuals had been extrajudicially executed and four had been forcibly disappeared, had also successfully been brought to trial, resulting in the conviction of 13 people for extrajudicial execution, including 6 police officers. In that same case, in June 2016 charges of enforced disappearance had been brought against 15 individuals, including a former government minister and a retired senior police officer; 12 of the persons had been remanded in custody and the other 3 prohibited from leaving the country. One of the four persons who had disappeared after the police raid had been located by the Attorney General's Office 13 years later and, considering that the necessary guarantees were in place, had decided to return to the country under the protection and support scheme for victims, witnesses and other participants in criminal proceedings. With the investigation phase now completed, it was hoped that a trial date would be set shortly.

4. The second line of action related to the development of a legal framework to address the problem of enforced disappearance in a comprehensive manner. The precepts established in the Convention were enshrined in the Constitution and in legislation, which defined enforced disappearance as a serious criminal offence that was not subject to any statute of limitations. Judicial procedures had been developed with a view to combating impunity, protecting witnesses and fostering cooperation between States, while mechanisms have been put in place to support prevention efforts, guarantee that victims had access to the truth and provide restitution, compensation, rehabilitation, guarantees of non-repetition and satisfaction of rights violated.

5. The third line of action referred to the development of public policies, methodologies, institutions and technical and human capacity to create a society free of enforced disappearance. Over the past decade, the Ecuadorian State had undergone a profound transformation as a result of which respect for human rights was observed throughout its structure and in keeping with a concept of comprehensive security that aimed to protect the rights and liberties of individuals. That new approach situated citizens as the

key actors in individual and collective security processes, with the outcome that no cases of enforced disappearance had been registered in Ecuador during the reporting period.

6. The Government recognized that its obligations to the Committee lay principally in addressing enforced disappearance; however, it also believed in vigorously combating all forms of disappearance and did so in a number of ways. Most notably, its efforts to protect and dignify life and to raise living standards over the previous decade had led to a drastic reduction in the murder rate, had driven down inequality and had lifted more than 2 million Ecuadorians out of poverty.

7. Specific efforts to address the phenomenon of disappearances in general were ongoing in a number of spheres. To build human and technical capacity in the area of investigations, mandatory protocols had been developed for the national police, the Attorney General's Office and the courts. In 2013, the National Directorate for Offences against Life, Violent Death, Disappearance, Extortion and Illegal Confinement had been created within the national police and included an investigative unit with responsibility for locating disappeared persons; a similar special unit had been set up within the Attorney General's Office. The country's 10 criminal and forensic laboratories were outfitted with state-of-the-art technology, complemented by fingerprint and DNA databases and experts trained in forensic medicine, anthropology and psychology, ballistics and other areas. With an eye to fostering greater citizen participation, channels had been created for the public to report information about possible disappearances in ways that protected the identity of the person reporting the information as well as the confidentiality of the information. Persons reporting information could also be referred to the protection and support scheme for victims, witnesses and other participants in criminal proceedings; under that scheme, action by various public sector bodies and civil society organizations was coordinated by the Attorney General's Office in order to safeguard the well-being of victims, witnesses and other persons at risk. Communications strategies and capacity had also been developed, notably through the launch of the Ayúdanos a Encontrarlo (Help Us Find Him) campaign in which images of disappeared persons were disseminated via traditional and non-traditional media (social networks) and rewards of up to US$ 200,000 were offered for information leading to the resolution of cases. In the interest of providing a holistic approach to cases of disappeared persons, the President of Ecuador had launched and was actively involved in a comprehensive follow-up mechanism for missing persons cases: every six months, over a dozen public institutions met with missing persons' family members to review the status of investigations, offer various support services and develop new strategies and policies for handling cases of disappearances.

8. **Mr. Huhle** (Country Rapporteur) said that Ecuador was one of the few countries in Latin America and the Caribbean that had ratified articles 31 and 32 of the Convention, which showed that it took its obligations seriously. Referring to the document submitted by the Ombudsman's Office according to which 91 per cent of the over 4,500 cases of disappeared persons had been resolved, he wished to know how the delegation could be certain that none of the 400-odd unresolved cases involved enforced disappearance and whether those unresolved cases were disaggregated in terms of the cause and circumstances of the disappearance. He also wondered whether the Government maintained a unified database that documented and analysed all disappearances, regardless of their cause, and whether it kept a register of unidentified human remains, which the Committee believed was crucial to the prevention of enforced disappearance.

9. In respect of the investigation into the disappearance of José del Carmen Molano Ríos, opened in March 2013, he wished to know what progress had been made and whether that investigation was proceeding on an assumption of enforced disappearance, which would be contrary to the assertion that no such disappearances had taken place. A further question related to trafficking in persons, in which regard various international forums had recognized that Ecuador was a source, destination and transit country for the trafficking of men, women and children. The Committee would be grateful for information on how those cases were investigated and prosecuted, considering that other countries had found there to be a connection between human trafficking and the crime of enforced disappearance. Did the State party maintain statistics in relation to trafficking? The delegation should also explain how the international instruments described in the replies to the list of issues

(CED/C/ECU/Q/1/Add.1, para. 20) had been incorporated into the protection and support scheme for victims, witnesses and other participants in criminal proceedings.

10. **Mr. Corcuera Cabezut** (Country Rapporteur) said that the Committee was gratified to note that the Criminal Code of 2014 defined the offences of enforced disappearance and crimes against humanity. However, he was concerned about the language in article 84 of the Code because the Spanish phrase "con lo cual se impida el ejercicio de garantías constitucionales o legales" (thereby preventing the exercise of constitutional or legal guarantees) used the subjunctive form "impida" rather than the indicative form "impide" that appeared in the corresponding article of the Inter-American Convention on Forced Disappearance of Persons (art. II). He therefore invited the delegation to confirm that "preventing the exercise of constitutional or legal guarantees" formed part of the criminal conduct and was not, as article 84 seemed to suggest, a consequence of it.

11. Given the reports of possible disappearances perpetrated by individuals without the authorization, support or acquiescence of the State, he wished to know what legal provisions or offences the State party had established to ensure compliance with its obligations under article 3 of the Convention. While he was grateful for the explanation provided in the replies to the effect that the Constitutional Court had ruled in favour of the constitutionality of the Convention, the question asked in the list of issues had been meant to elicit information about specific cases in which the courts had invoked or applied provisions of the Convention.

12. In the information provided in respect of the Fybeca case, it was unclear whether the verdicts handed down related to the charges of enforced disappearance or to the charges of extrajudicial execution. If the former was the case, had the judges invoked the Convention in their judgments, and to what extent? The Committee would also be grateful for an explanation of the words "abduction committed under the modality of enforced disappearance", since it understood that the Criminal Code contained a separate definition of enforced disappearance, thus making the reference to abduction unnecessary.

13. The delegation should describe any other cases in which Convention provisions other than those relating to enforced disappearance had been violated, such as for negligence in maintaining registers of persons deprived of their liberty.

14. Given that, according to the reply to paragraph 2 of the list of issues, the offence of enforced disappearance could be applied to unresolved cases whose origins predated the 2014 entry into force of the Criminal Code, he wished to know whether prosecutors had taken that approach in the Fybeca case, or in any other cases, or whether the proceedings had been instituted before the Code had entered into force.

15. **Mr. Huhle** said that while detailed information had been provided on the Vaca, Cajas and Jarrín case and the Fybeca case, which together accounted for 41 per cent of victims of enforced disappearance in the State party, the delegation should describe the other cases that related to enforced disappearance, including their progress, which the Committee understood had not yet reached the investigation stage. Regarding the Fybeca case, he wished to know whether the Government had started extradition proceedings so that the police officer who had fled the country would face justice in Ecuador. Referring to the measures taken to advance judicial investigations, more information should be provided about the non-governmental organization Historical Human Remains Detection and the reason for contacting that organization.

16. **Mr. Corcuera Cabezut** said that he would be grateful if the delegation could confirm that under the Constitution and the Criminal Code, the offence of enforced disappearance was not subject to any statute of limitations, irrespective of whether or not the enforced disappearance constituted a crime against humanity. Concerning the observation made in the replies to the list of issues to the effect that the suspension of police officers during an investigation into their conduct would be contrary to the presumption of innocence, he would appreciate clarification of whether the "temporary reassignment" arrangement removed those individuals from the chain of command and guaranteed that they would not be involved in the investigation. It should also be explained whether officers who had been temporarily reassigned were prevented from participating in the investigation from its outset or only as from when the temporary reassignment had been ordered. Would

other members of the same police force who had not been placed on temporary reassignment also be prevented from participating? The Committee would be interested to know whether the same provisions applied to other law enforcement, security or military forces, considering that the measures envisaged under the Armed Forces Personnel Act seemed to be limited to instances in which a court summons had been issued. Were similar temporary measures also applied in other State bodies to officials suspected of involvement in an enforced disappearance?

17. **Mr. Huhle** said that more information was needed about the specialized functions of the National Directorate for Offences against Life, Violent Death, Disappearance, Extortion and Illegal Confinement. He would be grateful if the delegation could provide a copy of the Search, Investigation and Location Protocol for Disappeared, Missing or Lost Persons, which had not been submitted to the Committee, and wondered which other protocols or manuals, if any, were used in the search for missing and disappeared persons.

18. **Mr. Corcuera Cabezut** said that, in view of the reply to paragraph 9 of the list of issues, the delegation should confirm that where existing extradition treaties did not refer specifically to enforced disappearance, Ecuador adhered to multilateral treaties containing provisions on enforced disappearance, including the Convention. It should also describe how the Government would proceed if it received an extradition request from a State that was not a party to the Convention; might it apply to the Convention on the basis of articles 424 and 425 of the Constitution? Lastly, he asked for an update on the progress achieved, if any, in the cases of alleged enforced disappearance mentioned in paragraph 94 of the report and for information regarding any new requests for cooperation that had been made or received by the Government.

19. **Mr. Hazan** said that he was interested to learn about the unit for investigating enforced disappearances and related offences that existed within the Attorney General's Office, including details concerning its structure, personnel and working methodologies.

20. **Mr. Figallo Rivadeneyra** said that he, too, was unclear about the applicability of the statute of limitations, since article 84 of the Criminal Code defined enforced disappearance as an ordinary offence while article 89 mentioned it as a crime against humanity. Moreover, article 417, which stated that in cases of enforced disappearance, the statutory period would be counted from the day on which the person appeared or had the necessary elements to formulate an accusation for the crime in question (para. 3 (d)), was incompatible with the assertion that the crime was not subject to any statute of limitations. He would also be grateful for an explanation of what was meant by "having the necessary elements to formulate an accusation".

21. **Mr. Yakushiji** said that the delegation should explain the legal status of the Convention in the domestic law of Ecuador, specifically whether the 2009 decision of the Constitutional Court meant that enforced disappearance was to be regarded as a serious violation of human rights under the Constitution. In respect of the Fybeca case, he wished to know whether the charges of "abduction committed under the modality of enforced disappearance" meant that the crime would be prosecuted not under article 84 of the Criminal Code but by invoking the violation of constitutional rights. In that regard, the delegation should explain what effect article 84 had in respect of acts of enforced disappearance that had been committed before the entry into force of the Code, in the light of the continuous nature of the crime.

The meeting was suspended at 3.50 p.m. and resumed at 4.15 p.m.

22. **Ms. Argüello** (Ecuador) said that the Government had formulated a public policy for the investigation and punishment of cases of enforced disappearance in line with article 3 of the Convention. The National Directorate for Offences against Life, Violent Death, Disappearance, Extortion and Illegal Confinement was a highly specialized institution that followed technical procedures for investigation and information analysis and management; it operated nationwide and received support from the national police. Its human and material resources were distributed according to the burden of crime, population and size of each of its areas of operation. Persons with relevant expertise were recruited on the basis of profiles and aptitude testing, and continuous training was provided by national and international instructors, other police forces and United Nations bodies. That training

process had helped to consolidated the State party's expertise in such areas as investigative techniques, the chain of custody, genetic profiling and forensic medicine.

23. Since 2014, the Directorate had received 17,230 reports of missing persons and had resolved 94 per cent of cases. Most cases had involved lost children or individuals who had absented themselves owing to economic and social factors, including domestic, academic and psychological problems. The State had been able to promptly resolve the majority of those cases thanks to inter-institutional coordination, timely intervention and the array of tools used. The Government was under a legal obligation to continue investigating the remaining 6 per cent of cases. Responsibility for statistics on enforced and other types of disappearance was shared between the Attorney General's Office and the Directorate, with integrated statistics being used to formulate policies, design institutional structures and allocate resources. The Government also worked with schools and young people to design and implement prevention strategies.

24. In the area of trafficking, Ecuador pursued an inter-institutional public policy with the twin goals of protecting and providing redress for victims and combating impunity. The policy was implemented by three committees — one focusing on prevention, one on protection and assistance and one on investigation — which were formed of representatives from various ministries and public bodies. That inter-institutional structure was guided by a standardized protocol that aimed to ensure timely intervention, and coordination with other countries was used to secure the rescue of victims. The national police and the Attorney General's Office each had special investigative units to combat trafficking in persons; however, no evidence had been found to establish a connection between trafficking in persons and enforced disappearance. Information would be submitted to the Committee in writing providing statistics on the dismantling of trafficking gangs, arrests and rescues.

25. Regarding the temporary reassignment of police personnel, it was indeed the case that those officers were barred from participating in investigations, as they were suspended from their functions and removed from the chain of command until such time as the investigation was complete.

26. Lastly, she clarified that investigations into cases of enforced disappearance were not carried out by the investigative unit of the national police but by the special unit of the Attorney General's Office. While prosecutors in the Attorney General's Office were empowered to delegate tasks in the conduct of such investigations, the national police had not yet received any requests to participate.

27. **Mr. Cuellar** (Ecuador) said that searches for persons who had gone missing were carried out by the missing persons unit of the national police pursuant to the Search, Investigation and Location Protocol for Disappeared, Missing or Lost Persons. The unit initiated such searches ex officio following the filing of a missing persons report by the relatives or friends of the person concerned, who were then interviewed, given an explanation of the procedure and, if necessary, referred to the National Directorate for Offences against Life, Violent Death, Disappearance, Extortion and Illegal Confinement in order to receive medical treatment or psychological support.

28. Data concerning the missing person were entered into an information system and dispatched to relevant units of the police, and an initial search and rescue operation was immediately launched. A special canine search brigade helped to locate persons or human remains; where necessary, legal professionals were called upon to help assess the missing person's legal status. Missing persons' relatives and members of the general population could learn about the progress of cases on the website of the national police. The State was required by law to continue searching for persons reported as missing until the person had been found or his or her fate had been ascertained. If the police unit had reason to believe that a person had disappeared in connection with a criminal offence, it submitted a request to the Attorney General's Office for the initiation of a preliminary investigation. Various alert systems were used to assist in locating missing persons, and the data collected were routinely cross-referenced with those contained in the genetic profile registry.

29. **Mr. Andino** (Ecuador) said that a distinction was drawn in the Criminal Code between the offences of simple kidnapping (*secuestro*) and kidnapping for ransom (*secuestro extorsivo*), the penalties for which ranged, in the first case, from 5 to 7 years'

imprisonment, and in the second, from 10 to 13 years. The word "*secuestro*" did not appear in the definition of enforced disappearance set out in article 84 of the Code. The word "*impida*", which appeared in that definition in the present subjunctive form of the verb "to prevent", reflected the effect produced by the criminal conduct, namely, the impairment of the right of victims of enforced disappearance to enjoy the constitutional or legal guarantees that they would otherwise have enjoyed if they had been lawfully deprived of their liberty.

30. Article 89 of the Criminal Code provided for the definition of the offence of enforced disappearance when committed as part of a widespread or systematic attack against a civilian population, as set forth in the Rome Statute of the International Criminal Court. Both article 84 and article 89 were included in the section of the Code on crimes against humanity. In accordance with article 80 of the Constitution and articles 16 and 75 of the Code, neither the launching of criminal proceedings nor the imposition of penalties in respect of those offences was subject to statutory limitations. The provisions contained in article 417 (3) (d) of the Code referred to disappearances that fell outside the scope of enforced disappearance and in which agents of the State were not implicated.

31. **Mr. Tinajero Mullo** (Ecuador) said that, in 2014, regulations had been adopted on the establishment of a protection and support scheme for victims, witnesses and other participants in criminal proceedings. Between 2014 and 2016, a total of approximately US$ 2.4 million had been allocated to the scheme, whose aim was to ensure that the opinions and concerns of protected victims were taken into account at appropriate stages of the proceedings without undermining their rights, physical or mental recuperation or entitlement to the various services offered by the scheme.

32. The National Directorate for Victim Redress and Protection from Impunity, which was part of the Ombudsman's Office, had provided assistance to 312 of the 459 victims who were listed in the final report of the Truth Commission; to date, 248 agreements for material compensation had been concluded. In addition, 734 persons had been assisted by the National Programme for Victim Redress and Protection from Impunity since its launch in February 2015; of those, 258 were direct victims and 476 were indirect victims, including spouses and relatives. The Ministry of Justice, Human Rights and Religious Affairs was responsible for providing financial compensation for harm suffered by victims; 76 victims had been designated to receive benefits through 26 compensation agreements, the latter having been concluded by a negotiations committee following multiple rounds of negotiations. One of the cases being finalized was that of Erwin Vivar, a victim in the Fybeca case that had been documented by the Truth Commission. Thanks to the efforts of the Attorney General's Office, Mr. Vivar had been located, had returned to Ecuador and had been placed in the protection and support scheme for victims, witnesses and other participants in criminal proceedings.

33. The Truth Commission and Human Rights Directorate of the Attorney General's Office was responsible for investigating and monitoring cases of human rights violations, as well as for coordinating and cooperating with government agencies in charge of providing protection to victims, witnesses and other participants in criminal proceedings. The Directorate gathered information deemed pertinent on individuals, entities or public servants; carried out visits or inspections; obtained expert opinions for investigative purposes; and followed up and monitored cases that were in progress. The case of José del Carmen Molano Ríos had originated on charges of abduction but was currently being investigated as an alleged enforced disappearance. The Government would provide additional written information concerning the progress of the case to the Committee in due course.

34. **Ms. Argüello** (Ecuador) said that the remaining unresolved missing persons cases, which represented some six per cent of all such cases, were currently at the preliminary investigation stage. To date, they had not yielded any findings that might lead the Attorney General's Office to believe that any of them involved the commission of an enforced disappearance.

35. In the original Fybeca case, the national police disciplinary court had investigated the deaths of the eight persons but had dismissed the murder proceedings against the police officers and had closed the investigation. Subsequently, the investigation had been

reopened on the claim of a vitiated res judicata, which was an international offence that could be invoked in order to reopen a case in which there had been failure to observe rules of international law prohibiting impunity in a legal matter. As a result of the reopened investigation, the police officers had been convicted of murder by extrajudicial execution and sentenced to 16 years of extraordinary rigorous imprisonment. They had not been tried for extrajudicial execution since, at the time of the events in 2003, that offence had not been defined as such in Ecuadorian criminal legislation.

36. On the strength of further investigations into the case, proceedings had subsequently been initiated on charges of abduction committed under the modality of enforced disappearance; those proceedings had been at the preliminary investigation stage since June 2016. The charge of enforced disappearance had not been made because the events in the proceeding had occurred in 2003, thus prior to the characterization of that offence as such under Ecuadorian criminal law. In both of the reopened investigations, international standards had been applied in order to prevent impunity. In the most recent investigation, during the preliminary hearing the prosecutor had had discretion to reclassify the criminal conduct and to bring it into line with the definition of the offence of enforced disappearance contained in the Convention. Since enforced disappearance was a continuous crime, to which statutory limitations did not apply, and since the perpetrators were members of the national police, the Attorney General had tried the case on the charge of abduction committed under the modality of enforced disappearance.

37. As to the question of extradition, given that the Attorney General's Office had gathered sufficient evidence to charge Eduardo González — the leader of the police operation carried out at the Fybeca pharmacy — with the offence of extrajudicial execution amounting to serious human rights violations, the Ministry of Foreign Affairs had transmitted the necessary documents to the Department of State of the United States of America in order to request the extradition of Mr. González. That request was currently still pending.

38. The Search, Investigation and Location Protocol for Disappeared, Missing or Lost Persons, a copy of which would be transmitted to the Committee in due course, set out the administrative procedures that the special units of the national police, as first responders, and the Attorney General's Office and other judicial and support units were required to observe in the search for missing persons and the investigation into suspected criminal conduct, the aim being to protect the life, physical integrity and personal freedom of such persons. On being informed that a person had gone missing, the authorities took immediate action to discover the truth, locate the person and, if a crime had been committed, to arrest and prosecute the perpetrator. No case was closed until the person had been found or the perpetrator had been brought to justice. The Protocol called for inter-institutional coordination and support in carrying out the measures required to find a missing person, including among units responsible for health, civil registration, education, employment and migration. The Attorney General's Office and the National Directorate for Offences against Life, Violent Death, Disappearance, Extortion and Illegal Confinement had put together procedural manuals for the investigation of cases of missing persons on the basis of the Protocol.

39. **Mr. Huhle** said he would like to know whether, in cases of human trafficking, the State party systematically checked for the two additional elements — namely, the participation of organs or agents of the State and their refusal to acknowledge the whereabouts of the victim — that would characterize the offence as an enforced disappearance. With regard to the separation between the investigation of cases of abduction, kidnapping or missing persons, on the one hand, and enforced disappearance, on the other, he wished to caution that decisions taken too early on the basis of insufficient information as to which kind of disappearance was involved might lead to the closure of cases before a thorough investigation could be conducted to determine whether or not they constituted enforced disappearance. In that connection, he wished to know which line of investigation was being pursued in the case of Mr. Molano Ríos and whether or not the police had excluded his case as a possible enforced disappearance.

40. **Mr. Corcuera Cabezut** said that he would like to know whether the provision on enforced disappearance contained in article 84 of the Criminal Code, which was placed in

the chapter on serious violations of human rights and offences against international humanitarian law in the section on crimes against humanity, could also be applied in an isolated case of enforced disappearance that had not been committed in the context of a widespread or systematic attack against a civilian population, despite having been placed under those headings. Along those same lines, he asked whether the delegation could confirm that enforced disappearance was subject to universal jurisdiction, in keeping with article 9 of the Convention, even if the offence involved an isolated act and therefore did not amount to a crime against humanity, and that no statute of limitation was applied to either isolated acts of enforced disappearance or those that occurred in a widespread or systematic fashion.

41. In the Fybeca case, he could understand why the police officers had not been charged with the offence of extrajudicial execution, since, at the time of the events, it had not been defined as such under Ecuadorian criminal law. However, the same did not seem to be true for enforced disappearance, given its nature as a continuous offence. Consequently, he sought clarification as to whether it was possible to change the definition of the offence in that case and adjust it to article 84 of the Criminal Code and asked whether the case was still pending.

42. Lastly, he enquired as to whether the temporary reassignment of police officers prevented their participation in an investigation from the moment that they were temporarily reassigned or from the moment that the investigation was initiated. He asked whether temporary reassignment was also used for members of the armed forces or for public servants in other government institutions that did not have law enforcement mandates, where a civil servant might have been implicated as an accomplice to the person issuing the order that had resulted in an enforced disappearance.

43. **Mr. Huhle** said that, in the experience of many States parties to the Convention, the methods and objectives pursued by criminal investigators and humanitarian search units in a missing persons case were sometimes consistent with each other; at other times, however, they could be at odds with each other or even mutually exclusive. That had to do with the fact that prosecutors were searching for the perpetrator, while humanitarian agencies were searching for the missing person. He asked whether the Government was aware of that problem and, if so, how it dealt with it.

44. **Mr. Hazan** asked whether the State party's DNA databases contained records pertaining to unidentified bodies that had been recovered, such that they could be cross-referenced with data collected from missing persons' relatives.

45. **Mr. de la Vega** (Ecuador) said that the Attorney General's Office relied on the services of the national police for support in investigations but not in respect of cases of enforced disappearance, as that would give rise to a conflict of interest. The mandate of the special unit of the national police was restricted to performing the administrative procedures involved in searching for persons who had gone missing. The armed forces did not participate in criminal investigations. When the Attorney General's Office did not have the capacity it needed for a particular case, it requested national or international cooperation, as had happened in the cases of disappearance documented by the Truth Commission. Those cases would be described in greater detail in the additional information that would be submitted to the Committee in writing.

46. **Mr. Andino** (Ecuador) said that, in accordance with the Constitution, criminal proceedings and penalties in respect of the offences of enforced disappearance and crimes against humanity, defined respectively in articles 84 and 89 of the Criminal Code, were not subject to statutory limitations.

47. **Ms. Argüello** (Ecuador) said that article 84 was applicable to isolated instances of enforced disappearance. Written information concerning the question of universal jurisdiction would be submitted to the Committee in due course.

48. **Mr. Cuellar** (Ecuador) said that the national police collected DNA samples from all unidentified bodies and kept a record of any osseous remains found in the course of police procedures. It then cross-referenced that information with its missing persons data in order to check for positive matches. Any investigation carried out by the national police was

conducted under the direction of the Attorney General's Office. If there was reason to believe that a particular missing persons case involved the commission of an offence, then both an administrative procedure to search for the person and a criminal investigation were commenced. The national police had no authority or delegated powers to investigate cases of enforced disappearance.

49. **Mr. Andino** (Ecuador) said that, under the terms of article 401 of the Criminal Code, universal jurisdiction applied to the offence of enforced disappearance. It was applicable even in an isolated instance of that offence.

50. **Ms. Peralta** (Ecuador) said that an investigation conducted by the Attorney General's Office could involve reliance on police personnel or civilian staff, as appropriate. The national police acted as an auxiliary body in such investigations. Information concerning the criteria used to investigate human trafficking would be submitted to the Committee in writing.

51. **Mr. Tinajero Mullo** (Ecuador) said that the forensic genetic database contained 373 samples relating to 334 unidentified bodies or skeletal remains. Each time new genetic data became available for a corpse or its remains, the data were cross-referenced with all family members for whom data had been compiled in the database. Similarly, when new genetic data were collected from family members, they were checked against the data pertaining to unidentified bodies or remains.

52. Article 424 of the Constitution established that the Constitution took primacy over any other law in the Ecuadorian legal order. It also stipulated that any human rights treaty ratified by Ecuador whose provisions recognized rights that were more favourable than those recognized by the Constitution prevailed over any other domestic legal statute or act of government. Article 80 of the Constitution stipulated categorically that the proceedings and penalties for crimes against humanity and for enforced disappearance were not subject to statutory limitations.

53. **Mr. de la Vega** (Ecuador) said that the delegation would submit to the Committee, in writing, additional information on all outstanding questions following the conclusion of the interactive dialogue.

The meeting rose at 5.30 p.m.